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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/504,813

05/12/2005

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EXAMINER

DESAI, ANISH P

ART UNIT

PAPER NUMBER

1794

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03/03/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/504,813	SADATO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	ANISH DESAI	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/12/08</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Applicant's arguments in response to the Office action mailed on 09/12/07 have been fully considered. Support for the newly amended claims is found in the specification as originally filled.
2. In view of Applicant's amendment and after reviewing the prior art as a whole, the art rejections made by the previous Examiner are withdrawn.
3. In view of the newly amended claim 1, a new 35 USC Section 102(b) rejection based on Ogata et al. (JP 05-031854-Machine translation provided) is made.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Ogata et al. (JP 05-031854-Machine translation provided).
5. Ogata teaches a laminated cloth having a plastic film that is bonded to the rear of denim base cloth (equated to Applicant's back textile) via a water-insoluble adhesive layer and a lining of cotton cloth (equated to Applicant's face textile) is laminated to the plastic film via water-soluble adhesive (see abstract). It is noted that Applicant and Ogata both disclose adhesives such as polyacrylamide, polyvinyl alcohol as a water-soluble temporary adhesive (see 0054 of Applicant's US Patent Application Publication

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2005/0208854A1 and 0013 of Ogata). Therefore, the water-soluble adhesive of Ogata is equated to the temporary adhesive. Accordingly, Ogata anticipates the claimed invention.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 6-8, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lumb et al. (US 5,204,156) in view of Ogata et al. (JP 05-031854-Machine translation provided).

7. Lumb teaches a stretchable, drapable, windproof, water resistant and water vapor permeable composite fabric (equated to Applicant's laminated fabric) (abstract). Further, as shown in Figure 3 and at column 5 lines 1-11, the laminated fabric of Lumb includes an inner fabric layer 16 (equated to face textile) and an outer fabric layer 22 (equated to back textiles) that are bonded to a waterproof moisture vapor permeable barrier layer (abstract) using adhesive layer(s) 15. The adhesive of Lumb can be formed of polyurethane (column 5 lines 1-11), which is equated to the water-insoluble adhesive.

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8. Lumb is silent as to teaching the inner fabric layer (face textile) is laminated with a temporary adhesive layer.

9. However, Ogata discloses a laminated cloth having a plastic film that is bonded to the rear of denim base cloth via a water-insoluble adhesive layer and a lining of cotton cloth that is laminated to the plastic film via water-soluble adhesive (see abstract). It is noted that Applicant and Ogata both disclose adhesives such as polyacrylamide, polyvinyl alcohol as temporary adhesive (see 0054 of Applicant's US Patent Application Publication 2005/0208854A1 and 0013 of Ogata). Therefore, the water-soluble adhesive of Ogata is equated to the temporary adhesive.

10. It is noted from the 0016 of Ogata that the water-soluble adhesive of Ogata is used to temporary stick the lining cloth so that the sewing of the cloth can be carrier out easily. Further, the disclosure of Ogata at paragraphs 0016 is interpreted as Ogata bonds the inner lining (which comes in contact with the skin) to the film by water-soluble adhesive such that during the laundering, the water-soluble adhesive is removed. As a result, the lining will be loosely bonded to the plastic film (at the points where it was sewed), such that it provides soft and comfortable feeling when the clothing article of Ogata that is formed from such a laminated fabric is worn. It is noted that the laminated fabric of Lumb is also used as clothing article (e.g. outerwear) (column 1 lines 15-25). Further, the disclosure of Lumb at column 2 lines 20-25 (beginning at "The inner fabric layer may be rendered hydrophilic...") is interpreted as the inner fabric layer (face textile) of Lumb is facing inside (i.e. towards the skin) such that it can come in contact with the skin of the wearer.

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11. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to bond the inner fabric layer of the laminated fabric of Lumb using a water-soluble adhesive and sew the inner fabric layer as taught by Ogata, such that when the laminated fabric is washed, it will provide soft and comfortable feeling to the wearer.

12. Regarding claim 6, in absence of unexpected results, selection of fabric weight would have been obvious, motivated by the desire to provide suitable strength to the face textile and back textile. With respect to claim 7, it would have been obvious to select the face fabric as a woven and back fabric as a knitted fabric, motivated by the desire to provide suitable strength to the face textile and back textile.

13. Regarding claims 16 and 17, it is noted that at column 4 lines 55-60, Lumb discloses a fabric having 70-150 denier, which converts to 77 to 166.7 decitex (using 1 denier = 1.1 decitex). Alternatively, one of ordinary skill in the art can select a face textile with suitable decitex, motivated by the desire to provide durability and strength to the face textile.

14. Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lumb et al. (US 5,204,156) in view of Ogata et al. (JP 05-031854-Machine translation provided) as applied to claim 1 above, and further in view of Takahiro et al. (JP 2002-20916).

15. Takahiro discloses a film glove comprising a porous polytetrafluoroethylene (PTFE) film that is waterproof and moisture vapor permeable (see claim 1). Further,

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claim 4 of Takahiro discloses coating of the inside surface of the pores of PTFE film with water and oil repellent polymer. Moreover, claim 3 of Takahiro discloses applying of a hydrophilic moisture-proof coating to the entire surface of one or both sides of the porous PTFE film. Further at paragraph 0004, Takahiro discloses the drawn PTFE film has a high porosity and excellent moisture permeability, and it is flexible because of this high porosity. In addition, the PTFE film itself repels water; therefore it has superior water resistance.

16. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select the PTFE film as taught by Takahiro above and use it in the invention of Lumb as modified by Ogata as a waterproof moisture vapor permeable film, motivated by the desire to provide excellent moisture permeability to the laminated fabric. Alternatively, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select the PTFE film as taught by Takahiro above and use it in the invention of Lumb as modified by Ogata, because selection of a known material based on its suitability for its intended use supports a *prima facie* case of obviousness.

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17. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lumb et al. (US 5,204,156) in view of Ogata et al. (JP 05-031854-Machine translation provided) as applied to claim 1 above, and further in view of Wiedner et al. (US 5,461,724).

18. Wiedner's discloses an article of clothing for medical or chemical field for protection against liquids and/or microorganisms comprising three layers.

19. Regarding claim 6, Wiedner discloses that "For the purpose of pleasant and comfortable wearing of the article of clothing provision is made...**the inner layer is of lighter design than the outer layer**. This is also made possible by the fact that the inner layer which does not come in direct contact with the environment is subject to substantially less stress than the outer layer." (column 2 lines 55-60).

20. Thus regarding claim 6, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select the face textile having weight greater than that of the back textile, because selection of a known material based on its suitability for its intended use establishes a *prima facie* case of obviousness.

21. Regarding claim 7, the outer layer of Wiedner's article is formed of a tightly woven hydrophobic fabric which forms a liquid barrier and a microorganism barrier (abstract and column 1 lines 55-60). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form Applicant's face textile from woven fabric, motivated by the desire to provide protection against liquid and microorganisms.



***Response to Arguments***

22. Applicant's arguments received on 04/12/08 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

23. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

24. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANISH DESAI whose telephone number is (571)272-6467. The examiner can normally be reached on Monday-Friday, 8:00AM-4:30PM.

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26. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Tarazano can be reached on 571-272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

27. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. D./  
Examiner, Art Unit 1794

/Hai Vo/  
Primary Examiner, Art Unit 1794